

**Comments Summary**  
**Clearinghouse Rule 22-060 –**  
**creating ch. Jus 20**  
**(relating to the storage and processing of sexual assault kits)**

The Department of Justice (DOJ) held one public hearing on October 13, 2022, for Clearinghouse Rule 22-060, which proposes to create chapter Jus 20 relating to the storage and processing of sexual assault kits.

DOJ received no written comments on the proposed rule and one oral comment at the October 13, 2022, hearing, which is summarized below. The individual listed below commented on her own behalf.

<b>Name</b>	<b>Comment</b>	<b>Response</b>
Olivia Kiefer	<p>The commenter indicated that she was appearing for a class and first asked if there are any current time frames put in place as stated in the scope statement for the proposed rule. She also asked whether the proposed time frames are shorter than the ones stated in current law.</p> <p>She then commented that, after looking at s. 165.775, Stats., and 2021 Wis. Act 116, she noticed that there is nothing in the law that would give notice to the victim. She commented that the proposed rule compares to the Survivors' Bill of Rights, which has a time frame that, no later than 60 days before disposal, the victim would be notified if they made a written request to be notified. She expressed</p>	<p>Although the proposed rule does not address the topic of victim notification prior to the destruction of his or her sexual assault kit, victim notification is addressed through other mechanisms used in Wisconsin.</p> <p>The first is provided through education and communication to the victim by the health care professional at the time of the sexual assault forensic examination. The health care professional will discuss the evidence collection and reporting options available to the sexual assault victim. This communication is facilitated through the use of a form that is included with every sexual assault kit, the "Medical Forensic Exam with Evidence Collection -</p>

	<p>concern that if we do not notify these victims that they would not know that their kits are being disposed of, as ten years is a long time to forget that a kit was taken.</p>	<p>- Information and Options” form. The form has signature lines for the health care professional and victim to acknowledge that a discussion occurred of the options available to the victim. A copy of this form is provided to the victim after the sexual assault forensic examination.</p> <p>Of note on the form is specific information for the victim who elects to have evidence collected at the exam but chooses not to report the assault to law enforcement, as follows: after collection of the kit, it will be submitted by the health care provider to the Wisconsin State Crime Laboratories for storage. The crime lab will store the kit (without testing) for at least 10 years.</p> <p>If the victim chooses to later report the assault to law enforcement, this report will need to be made within 9.5 years after collection of the kit. The reasoning for the need to report six months prior to the disposal date is to allow the crime lab time to analyze the kit, and for charges to be filed in court by the prosecution prior to the</p>
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		<p>statute of limitations expiring for the assault at 10 years, as applicable to second- and third-degree sexual assaults.</p> <p>The final statement on the form for the non-reporting victim reads: “I understand that, after ten years, if I haven’t reported the assault to law enforcement, the Wisconsin State Crime Laboratory will permanently dispose of the evidence from my medical forensic exam without any further notification to me, unless I opt-in to notification through the Track-Kit system.”</p> <p>The Wisconsin Sexual Assault Kit Tracking System (also known as Track-Kit™) is a web-based application that allows the victim to view their kit’s location—from the medical facility to law enforcement to the crime laboratory. The application also allows a victim to opt in to receive e-mail or text-message notifications when their kit location changes, and if the victim has chosen not to report the assault to law enforcement, to receive a reminder notification that their kit</p>
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		<p>is approaching its date for permanent disposal after 10 years.</p> <p>For victims who choose to have the reminder notification, they would receive it one year prior to the disposal of their kit by the crime laboratory. The previously mentioned “Information and Options” form will contain a Wisconsin Sexual Assault Kit Tracking System barcode that is specific to the kit used for a victim’s exam and contains a temporary password allowing the victim to log in and access the kit-tracking application.</p>
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